

### **REMARKS**

Claims 1-5 have been amended. Claims 6-19 remain canceled. Claims 1-5 are pending in this application.

#### **I. Claim Rejections Under 35 U.S.C. §101**

The office action states that claims 1-5 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. More specifically, the examiner states that the recitation of a “computer implemented method” in the preamble of claim 1 is merely a nominal recitation of tying the method to the computer. Applicant has been requested to positively claim such a tie within significant steps of the claimed method.

In accordance with the examiner’s suggestions, which are greatly appreciated, applicant has amended all claims 1-5 to require such a tie in each step where the computer is implemented to carry out the method. As suggested by the examiner, applicant has used the language “via the computer” throughout the claims. The examiner has also suggested amending the claims to specify that the records are stored in computer memory. Accordingly, applicant has amended the claims where appropriate to indicate that the data records are stored generally in a storage device in the computer because the data records can be stored in either computer memory, as suggested by the examiner, or in other types of storage, such as a hard drive, for example.

In view of the foregoing, applicant submits that the claims, as amended, comply with Section 101 as they meet the requirements of the machine-or-transformation test from the *Bilski* case. Applicant respectfully requests that this rejection be withdrawn.

**II. Claim Rejections Under 35 U.S.C. §112**

The office action states that claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the office action states that claim 1 is indefinite because it includes language that refers to existing industry practice. As per the examiner's request, applicant has removed such language from claim 1. In the examiner's suggestion No. (4), applicant has modified this slightly to remove "under existing industry practices" to maintain clarity of this claim.

In view of the foregoing, applicant submits that claim 1 and dependent claims 2-5 therefrom are now clear and definite under Section 112.

**III. Request for Additional Information**

Under 37 CFR 1.105, the examiner has requested some additional information that is necessary to the examination of the application. Specifically, the examiner has asked for documents that were relied on in drafting the specification and/or relevant to the invention. In connection with this request, applicant attached hereto the following documents:

1. Revised regulatory filing (ADV Form-Part II) for Water Street Advisers, Inc., the assignee of the instant application, submitted to the Securities Division of the State of Rhode Island. This filing was also submitted to the State of Massachusetts. The IARD

system of on-line regulatory filings managed by NASD required the uploading of this ADV form to their website in August 2007.

2. Copy of pertinent pages of assignee Water Street Advisors, Inc.'s web site, created in July of 2006 ([www.wtrstr.com](http://www.wtrstr.com)).

3. The background documents and citations referred to in paragraphs 6-32 in the instant application. For the convenience of the examiner, these items are also being submitted on an information disclosure statement with copies of the pertinent pages, which have already been referenced in the instant application.

#### **IV. Conclusion**

Applicant submits that Claims 1-5, as amended, are allowable over the cited prior art and comply with Sections 101 and 112. In view of the above, Applicant submits that pending Claims 1-5 are now in condition for allowance. Reconsideration of the Rejections and Objections are requested. Allowance of Claims 1-5 at an early date is solicited.

If an extension of time is required for timely submission of this response, Applicant hereby petitions for an appropriate extension of time and the Office is authorized to charge Deposit Account 02-0900 for the appropriate additional fees in connection with the filing of this response or credit any overpayment.

The Examiner is invited to telephone the undersigned should any questions arise.

Respectfully submitted,

/david r. josephs/

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